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**ENGROSSED SUBSTITUTE SENATE BILL 5378**

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**State of Washington**

**58th Legislature**

**2003 Regular Session**

**By** Senate Committee on Commerce & Trade (originally sponsored by Senators Honeyford, Hewitt, T. Sheldon, Mulliken, Rasmussen and Hale)

READ FIRST TIME 02/06/03.

1       AN ACT Relating to simplifying and adding certainty to the  
2 calculation of workers' compensation benefits; amending RCW 51.08.178,  
3 51.28.040, 51.32.050, 51.32.060, 51.32.072, 51.32.075, 51.32.080,  
4 51.32.095, and 51.36.020; reenacting and amending RCW 51.32.090; adding  
5 new sections to chapter 51.08 RCW; adding a new section to chapter  
6 51.32 RCW; providing an effective date; and declaring an emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8       NEW SECTION. **Sec. 1.** A new section is added to chapter 51.08 RCW  
9 to read as follows:

10        "Inflation" means the percentage change in the implicit price  
11 deflator for personal consumption expenditures for the United States as  
12 published for the most recent twelve-month period by the bureau of  
13 economic analysis of the federal department of commerce in September of  
14 the year before a June 30th determination.

15       **Sec. 2.** RCW 51.08.178 and 1988 c 161 s 12 are each amended to read  
16 as follows:

1       ~~((1) For the purposes of this title, the monthly wages the worker~~  
2 ~~was receiving from all employment at the time of injury shall be the~~  
3 ~~basis upon which compensation is computed unless otherwise provided~~  
4 ~~specifically in the statute concerned. In cases where the worker's~~  
5 ~~wages are not fixed by the month, they shall be determined by~~  
6 ~~multiplying the daily wage the worker was receiving at the time of the~~  
7 ~~injury:~~

8       ~~(a) By five, if the worker was normally employed one day a week;~~

9       ~~(b) By nine, if the worker was normally employed two days a week;~~

10       ~~(c) By thirteen, if the worker was normally employed three days a~~  
11 ~~week;~~

12       ~~(d) By eighteen, if the worker was normally employed four days a~~  
13 ~~week;~~

14       ~~(e) By twenty two, if the worker was normally employed five days a~~  
15 ~~week;~~

16       ~~(f) By twenty six, if the worker was normally employed six days a~~  
17 ~~week;~~

18       ~~(g) By thirty, if the worker was normally employed seven days a~~  
19 ~~week.~~

20       ~~The term "wages" shall include the reasonable value of board,~~  
21 ~~housing, fuel, or other consideration of like nature received from the~~  
22 ~~employer as part of the contract of hire, but shall not include~~  
23 ~~overtime pay except in cases under subsection (2) of this section.~~  
24 ~~However, tips shall also be considered wages only to the extent such~~  
25 ~~tips are reported to the employer for federal income tax purposes. The~~  
26 ~~daily wage shall be the hourly wage multiplied by the number of hours~~  
27 ~~the worker is normally employed. The number of hours the worker is~~  
28 ~~normally employed shall be determined by the department in a fair and~~  
29 ~~reasonable manner, which may include averaging the number of hours~~  
30 ~~worked per day.~~

31       ~~(2) In cases where (a) the worker's employment is exclusively~~  
32 ~~seasonal in nature or (b) the worker's current employment or his or her~~  
33 ~~relation to his or her employment is essentially part time or~~  
34 ~~intermittent, the monthly wage shall be determined by dividing by~~  
35 ~~twelve the total wages earned, including overtime, from all employment~~  
36 ~~in any twelve successive calendar months preceding the injury which~~  
37 ~~fairly represent the claimant's employment pattern.~~

1 ~~(3) If, within the twelve months immediately preceding the injury,~~  
2 ~~the worker has received from the employer at the time of injury a bonus~~  
3 ~~as part of the contract of hire, the average monthly value of such~~  
4 ~~bonus shall be included in determining the worker's monthly wages.~~

5 ~~(4) In cases where a wage has not been fixed or cannot be~~  
6 ~~reasonably and fairly determined, the monthly wage shall be computed on~~  
7 ~~the basis of the usual wage paid other employees engaged in like or~~  
8 ~~similar occupations where the wages are fixed.)) (1) "Wages" means the~~  
9 ~~gross cash compensation paid by the employer for services performed.~~

10 (2) "Cash" means payment in cash, by check, by electronic transfer,  
11 or by other means made directly to the worker at the end of each pay  
12 period before any mandatory deductions required by state or federal  
13 law.

14 (3) The worker's monthly wage shall be determined by dividing by  
15 twelve the total wages earned from all employment, including cash  
16 bonuses and overtime pay, in any four successive quarters in the  
17 twenty-four months preceding the injury or manifestation of  
18 occupational disease that most reasonably represents the worker's  
19 wages.

20 (a) Tips shall be considered wages only to the extent that such  
21 tips are reported to the employer for federal income tax purposes.

22 (b) Wages shall include the actual value of board, housing, and  
23 fuel received from the employer as part of the contract of hire and for  
24 which an internal revenue service form 1099 is required. This  
25 subsection does not apply during any period in which the employer  
26 continues to provide, through a past or current payment, board,  
27 housing, and/or fuel that were provided to the employee at the time of  
28 the injury or manifestation of occupational disease.

29 (c) Wages shall not include fringe benefits. Fringe benefits are  
30 any consideration given to a worker in addition to wages including, but  
31 not limited to: Retirement and financial benefit plans of whatever  
32 nature; mental and physical health insurance and treatment of whatever  
33 nature; life, disability, and wage-replacement insurance of whatever  
34 nature; unused, accrued leave of whatever nature; memberships of  
35 whatever nature; employee discounts or use or consumption of employer  
36 services, materials, equipment, and facilities of whatever nature;  
37 training and education of whatever nature; and other employee or

1 beneficiary benefit plan for the employee's or beneficiaries' benefit  
2 resulting from the employment relationship.

3 (4) In cases where the worker is self-employed or the worker's  
4 monthly wage cannot be reasonably determined under subsection (3) of  
5 this section due to the worker sustaining an injury or occupational  
6 disease less than one year after beginning an employment relationship  
7 that both the worker and the employer intend to be continuous and  
8 lasting without limit into the foreseeable future, and which provides  
9 wages, on an annualized basis, of greater than one hundred fifty  
10 percent of wages earned by the worker in the twelve months before  
11 beginning such employment, the monthly wage shall be computed on the  
12 basis of the usual wage paid other employees of the employer at the  
13 time of injury or manifestation of occupational disease who perform  
14 like job duties with like work patterns or, if none exist, other  
15 employees in the worker's labor market who perform like job duties with  
16 like work patterns.

17 (5) In cases where the worker's monthly wage cannot be reasonably  
18 determined under subsection (3) of this section due to the worker  
19 sustaining an injury or occupational disease less than one year after  
20 beginning an employment relationship that either the worker or the  
21 employer do not intend to be continuous and lasting without limit into  
22 the foreseeable future, or which provides wages, on an annualized  
23 basis, of fifty percent or less of wages earned by the worker in the  
24 twelve months before beginning such employment, the monthly wage shall  
25 be computed on the basis of the usual wage paid other employees of the  
26 employer at the time of injury or manifestation of occupational disease  
27 who perform like job duties with like work patterns, or, if none exist,  
28 other employees in the worker's labor market who perform like job  
29 duties with like work patterns.

30 (6) If the employer or department cannot obtain sufficient accurate  
31 information to calculate the worker's wages pursuant to subsection (3)  
32 of this section before the first payment of temporary total disability  
33 compensation is due, payments may be made provisionally based upon the  
34 worker's wages on the date of injury or manifestation of occupational  
35 disease. For purposes of this subsection only, "wages" means the gross  
36 cash compensation paid by the employer for services performed. "Cash"  
37 means payment in cash, by check, by electronic transfer, or by other

1 means made directly to the worker at the end of each pay period before  
2 any mandatory deductions required by state or federal law.

3 **Sec. 3.** RCW 51.28.040 and 1977 ex.s. c 199 s 1 are each amended to  
4 read as follows:

5 ~~((If change of circumstances warrants an increase or rearrangement~~  
6 ~~of compensation, like application shall be made therefor.))~~ Where the  
7 worker's application to reopen a claim has been granted under RCW  
8 51.32.160, compensation and other benefits if in order shall be allowed  
9 for periods of time up to sixty days prior to the receipt of such  
10 application.

11 **Sec. 4.** RCW 51.32.050 and 1995 c 199 s 6 are each amended to read  
12 as follows:

13 (1) Where death results from the injury, the expenses of burial not  
14 to exceed two hundred percent of the average monthly wage in the state  
15 as defined in RCW 51.08.018 shall be paid.

16 (2)(a)(i) For claims with date of injury or manifestation of  
17 occupational disease before July 1, 2003, where death results from the  
18 injury, a surviving spouse of a deceased worker eligible for benefits  
19 under this title shall receive monthly for life or until remarriage  
20 payments according to the following schedule:

21 ~~((i))~~ (A) If there are no children of the deceased worker, sixty  
22 percent of the wages of the deceased worker but not less than one  
23 hundred eighty-five dollars;

24 ~~((ii))~~ (B) If there is one child of the deceased worker and in  
25 the legal custody of such spouse, sixty-two percent of the wages of the  
26 deceased worker but not less than two hundred twenty-two dollars;

27 ~~((iii))~~ (C) If there are two children of the deceased worker and  
28 in the legal custody of such spouse, sixty-four percent of the wages of  
29 the deceased worker but not less than two hundred fifty-three dollars;

30 ~~((iv))~~ (D) If there are three children of the deceased worker and  
31 in the legal custody of such spouse, sixty-six percent of the wages of  
32 the deceased worker but not less than two hundred seventy-six dollars;

33 ~~((v))~~ (E) If there are four children of the deceased worker and  
34 in the legal custody of such spouse, sixty-eight percent of the wages  
35 of the deceased worker but not less than two hundred ninety-nine  
36 dollars; or

1       (~~(vi)~~) (F) If there are five or more children of the deceased  
2 worker and in the legal custody of such spouse, seventy percent of the  
3 wages of the deceased worker but not less than three hundred twenty-two  
4 dollars.

5       (ii) For claims with date of injury or manifestation of  
6 occupational disease on or after July 1, 2003, where death results from  
7 the injury, a surviving spouse of a deceased worker eligible for  
8 benefits under this title shall receive monthly for life or until  
9 remarriage payments of sixty-five and five-tenths percent of the wages  
10 of the deceased worker, but not less than two hundred seventy-six  
11 dollars.

12       (b) Where the surviving spouse does not have legal custody of any  
13 child or children of the deceased worker or where after the death of  
14 the worker legal custody of such child or children passes from such  
15 surviving spouse to another, any payment on account of such child or  
16 children not in the legal custody of the surviving spouse shall be made  
17 to the person or persons having legal custody of such child or  
18 children. The amount of such payments shall be five percent of the  
19 monthly benefits payable as a result of the worker's death for each  
20 such child but such payments shall not exceed twenty-five percent.  
21 Such payments on account of such child or children shall be subtracted  
22 from the amount to which such surviving spouse would have been entitled  
23 had such surviving spouse had legal custody of all of the children and  
24 the surviving spouse shall receive the remainder after such payments on  
25 account of such child or children have been subtracted. Such payments  
26 on account of a child or children not in the legal custody of such  
27 surviving spouse shall be apportioned equally among such children.

28       (c) Payments to the surviving spouse of the deceased worker shall  
29 cease at the end of the month in which remarriage occurs: PROVIDED,  
30 That a monthly payment shall be made to the child or children of the  
31 deceased worker from the month following such remarriage in a sum equal  
32 to five percent of the wages of the deceased worker for one child and  
33 a sum equal to five percent for each additional child up to a maximum  
34 of five such children. Payments to such child or children shall be  
35 apportioned equally among such children. Such sum shall be in place of  
36 any payments theretofore made for the benefit of or on account of any  
37 such child or children. If the surviving spouse does not have legal  
38 custody of any child or children of the deceased worker, or if after

1 the death of the worker, legal custody of such child or children passes  
2 from such surviving spouse to another, any payment on account of such  
3 child or children not in the legal custody of the surviving spouse  
4 shall be made to the person or persons having legal custody of such  
5 child or children.

6 (d) (~~In no event shall~~) (i) For claims with date of injury or  
7 manifestation of occupational disease before July 1, 2003, the monthly  
8 payments provided in subsection (2) of this section may not exceed the  
9 applicable percentage of the average monthly wage in the state as  
10 computed under RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

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16 (ii) For claims with date of injury or manifestation of  
17 occupational disease on or after July 1, 2002, but before June 30,  
18 2004, the monthly payments provided in this subsection may not exceed  
19 one hundred twenty percent of the average monthly wage in the state on  
20 June 30, 2003. For all claims with the date of injury or manifestation  
21 of occupational disease on or after July 1, 2004, the monthly payments  
22 provided in this subsection may not exceed an amount determined by the  
23 department on June 30, 2003, and each June 30th thereafter, and  
24 applicable to claims with date of injury or manifestation of  
25 occupational disease in the twelve-month period following the June 30th  
26 determination. The amount is determined by adjusting the June 30,  
27 2003, amount for inflation on June 30, 2004. In subsequent years, the  
28 department shall adjust the amount applicable during the previous  
29 twelve-month period to account for inflation.

30 (e) In addition to the monthly payments provided for in subsection  
31 (2)(a) through (c) of this section, a surviving spouse or child or  
32 children of such worker if there is no surviving spouse, or dependent  
33 parent or parents, if there is no surviving spouse or child or children  
34 of any such deceased worker shall be forthwith paid a sum equal to one  
35 hundred percent of the average monthly wage in the state as defined in

1 RCW 51.08.018, any such children, or parents to share and share alike  
2 in said sum.

3 (f) Upon remarriage of a surviving spouse the monthly payments for  
4 the child or children shall continue as provided in this section, but  
5 the monthly payments to such surviving spouse shall cease at the end of  
6 the month during which remarriage occurs. However, after September 8,  
7 1975, an otherwise eligible surviving spouse of a worker who died at  
8 any time prior to or after September 8, 1975, shall have an option of:

9 (i) Receiving, once and for all, a lump sum of twenty-four times  
10 the monthly compensation rate in effect on the date of remarriage  
11 allocable to the spouse for himself or herself pursuant to subsection  
12 (2)(a)(i)(A) of this section and subject to any modifications specified  
13 under subsection (2)(d) of this section and RCW 51.32.075(~~(+3)~~) (1)(c)  
14 or fifty percent of the then remaining annuity value of his or her  
15 pension, whichever is the lesser: PROVIDED, That if the injury  
16 occurred prior to July 28, 1991, the remarriage benefit lump sum  
17 available shall be as provided in the remarriage benefit schedules then  
18 in effect; or

19 (ii) If a surviving spouse does not choose the option specified in  
20 subsection (2)(f)(i) of this section to accept the lump sum payment,  
21 the remarriage of the surviving spouse of a worker shall not bar him or  
22 her from claiming the lump sum payment authorized in subsection  
23 (2)(f)(i) of this section during the life of the remarriage, or shall  
24 not prevent subsequent monthly payments to him or to her if the  
25 remarriage has been terminated by death or has been dissolved or  
26 annulled by valid court decree provided he or she has not previously  
27 accepted the lump sum payment.

28 (g) If the surviving spouse during the remarriage should die  
29 without having previously received the lump sum payment provided in  
30 subsection (2)(f)(i) of this section, his or her estate shall be  
31 entitled to receive the sum specified under subsection (2)(f)(i) of  
32 this section or fifty percent of the then remaining annuity value of  
33 his or her pension whichever is the lesser.

34 (h) The effective date of resumption of payments under subsection  
35 (2)(f)(ii) of this section to a surviving spouse based upon termination  
36 of a remarriage by death, annulment, or dissolution shall be the date  
37 of the death or the date the judicial decree of annulment or

1 dissolution becomes final and when application for the payments has  
2 been received.

3 (i) If it should be necessary to increase the reserves in the  
4 reserve fund or to create a new pension reserve fund as a result of the  
5 amendments in chapter 45, Laws of 1975-'76 2nd ex. sess., the amount of  
6 such increase in pension reserve in any such case shall be transferred  
7 to the reserve fund from the supplemental pension fund.

8 (3) If there is a child or children and no surviving spouse of the  
9 deceased worker or the surviving spouse is not eligible for benefits  
10 under this title, a sum equal to thirty-five percent of the wages of  
11 the deceased worker shall be paid monthly for one child and a sum  
12 equivalent to fifteen percent of such wage shall be paid monthly for  
13 each additional child, the total of such sum to be divided among such  
14 children, share and share alike(~~(:—PROVIDED, That)~~), subject to the  
15 following:

16 (a) For claims with date of injury or manifestation of occupational  
17 disease before July 1, 2003, benefits under this subsection or  
18 subsection (4) of this section shall not exceed the lesser of sixty-  
19 five percent of the wages of the deceased worker at the time of his or  
20 her death or the applicable percentage of the average monthly wage in  
21 the state as defined in RCW 51.08.018, as follows:

	AFTER	PERCENTAGE
22		
23	June 30, 1993	105%
24	June 30, 1994	110%
25	June 30, 1995	115%
26	June 30, 1996	120%

27 (b) For claims with date of injury or manifestation of occupational  
28 disease on or after July 1, 2003, but before June 30, 2004, the monthly  
29 payments provided in this subsection may not exceed one hundred twenty  
30 percent of the average monthly wage in the state on June 30, 2003. For  
31 all claims with date of injury or manifestation of occupational disease  
32 on or after July 1, 2004, the monthly payments provided in this  
33 subsection may not exceed an amount determined by the department on  
34 June 30, 2003, and each June 30th thereafter, and applicable to claims  
35 with date of injury or manifestation of occupational disease in the  
36 twelve-month period following the June 30th determination. The amount

1 is determined by adjusting the June 30, 2003, amount for inflation on  
2 June 30, 2004. In subsequent years, the department shall adjust the  
3 amount applicable during the previous twelve-month period to account  
4 for inflation.

5 (4) In the event a surviving spouse receiving monthly payments  
6 dies, the child or children of the deceased worker shall receive the  
7 same payment as provided in subsection (3) of this section.

8 (5)(a) If the worker leaves no surviving spouse or child, but  
9 leaves a dependent or dependents, a monthly payment shall be made to  
10 each dependent as follows:

11 (i) For claims with date of injury or manifestation of occupational  
12 disease before July 1, 2003, the monthly payment shall be equal to  
13 fifty percent of the average monthly support actually received by such  
14 dependent from the worker during the twelve months next preceding the  
15 occurrence of the injury, but the total payment to all dependents in  
16 any case shall not exceed the lesser of sixty-five percent of the wages  
17 of the deceased worker at the time of his or her death or the  
18 applicable percentage of the average monthly wage in the state as  
19 defined in RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

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25 (ii) For claims with date of injury or manifestation of  
26 occupational disease on or after July 1, 2003, but before June 30,  
27 2004, the monthly payments provided in this subsection may not exceed  
28 one hundred twenty percent of the average monthly wage in the state on  
29 June 30, 2003. For all claims with date of injury or manifestation of  
30 occupational disease on or after July 1, 2004, the monthly payments  
31 provided in this subsection may not exceed an amount determined by the  
32 department on June 30, 2003, and each June 30th thereafter, and  
33 applicable to claims with date of injury or manifestation of  
34 occupational disease occurring in the twelve-month period following the  
35 June 30th determination. The amount is determined by adjusting the

1 June 30, 2003, amount for inflation on June 30, 2004. In subsequent  
2 years, the department shall adjust the amount applicable during the  
3 previous twelve-month period to account for inflation.

4 (b) If any dependent is under the age of eighteen years at the time  
5 of the occurrence of the injury, the payment to such dependent shall  
6 cease when such dependent reaches the age of eighteen years except such  
7 payments shall continue until the dependent reaches age twenty-three  
8 while permanently enrolled at a full time course in an accredited  
9 school. The payment to any dependent shall cease if and when, under  
10 the same circumstances, the necessity creating the dependency would  
11 have ceased if the injury had not happened.

12 (6) For claims filed prior to July 1, 1986, if the injured worker  
13 dies during the period of permanent total disability, whatever the  
14 cause of death, leaving a surviving spouse, or child, or children, the  
15 surviving spouse or child or children shall receive benefits as if  
16 death resulted from the injury as provided in subsections (2) through  
17 (4) of this section. Upon remarriage or death of such surviving  
18 spouse, the payments to such child or children shall be made as  
19 provided in subsection (2) of this section when the surviving spouse of  
20 a deceased worker remarries.

21 (7) For claims filed on or after July 1, 1986, every worker who  
22 becomes eligible for permanent total disability benefits shall elect an  
23 option as provided in RCW 51.32.067.

24 **Sec. 5.** RCW 51.32.060 and 1993 c 521 s 2 are each amended to read  
25 as follows:

26 (1) Except as provided in subsection (2) of this section, when the  
27 supervisor of industrial insurance (~~shall~~) determines that permanent  
28 total disability results from the injury, the worker shall receive  
29 monthly during the period of such disability:

30 (a) If married at the time of injury, sixty-five percent of his or  
31 her wages but not less than two hundred fifteen dollars per month.

32 (b) If married with one child at the time of injury, sixty-seven  
33 percent of his or her wages but not less than two hundred fifty-two  
34 dollars per month.

35 (c) If married with two children at the time of injury, sixty-nine  
36 percent of his or her wages but not less than two hundred eighty-three  
37 dollars.

1 (d) If married with three children at the time of injury,  
2 seventy-one percent of his or her wages but not less than three hundred  
3 six dollars per month.

4 (e) If married with four children at the time of injury,  
5 seventy-three percent of his or her wages but not less than three  
6 hundred twenty-nine dollars per month.

7 (f) If married with five or more children at the time of injury,  
8 seventy-five percent of his or her wages but not less than three  
9 hundred fifty-two dollars per month.

10 (g) If unmarried at the time of the injury, sixty percent of his or  
11 her wages but not less than one hundred eighty-five dollars per month.

12 (h) If unmarried with one child at the time of injury, sixty-two  
13 percent of his or her wages but not less than two hundred twenty-two  
14 dollars per month.

15 (i) If unmarried with two children at the time of injury,  
16 sixty-four percent of his or her wages but not less than two hundred  
17 fifty-three dollars per month.

18 (j) If unmarried with three children at the time of injury,  
19 sixty-six percent of his or her wages but not less than two hundred  
20 seventy-six dollars per month.

21 (k) If unmarried with four children at the time of injury,  
22 sixty-eight percent of his or her wages but not less than two hundred  
23 ninety-nine dollars per month.

24 (l) If unmarried with five or more children at the time of injury,  
25 seventy percent of his or her wages but not less than three hundred  
26 twenty-two dollars per month.

27 (2) For any claim with date of injury or manifestation of  
28 occupational disease on or after July 1, 2003, when the supervisor of  
29 industrial insurance determines that permanent total disability results  
30 from the injury, the worker shall receive monthly during the period of  
31 such disability sixty-five and five-tenths percent of his or her wages  
32 as determined under RCW 51.08.178, but not less than two hundred  
33 seventy-six dollars per month.

34 (3) For any period of time where both husband and wife are entitled  
35 to compensation as temporarily or totally disabled workers, only that  
36 spouse having the higher wages of the two shall be entitled to claim  
37 their child or children for compensation purposes under subsection (1)  
38 of this section.

1        ~~((3))~~ (4) In case of permanent total disability, if the character  
2 of the injury is such as to render the worker so physically helpless as  
3 to require the hiring of the services of an attendant, the department  
4 shall make monthly payments to such attendant for such services as long  
5 as such requirement continues, but such payments shall not obtain or be  
6 operative while the worker is receiving care under or pursuant to the  
7 provisions of chapter 51.36 RCW and RCW 51.04.105.

8        ~~((4))~~ (5) Should any further accident result in the permanent  
9 total disability of an injured worker, he or she shall receive the  
10 pension to which he or she would be entitled, notwithstanding the  
11 payment of a lump sum for his or her prior injury.

12        ~~((5) In no event shall))~~ (6)(a)(i) For claims filed before July 1,  
13 2003, the monthly payments provided in this section may not exceed the  
14 applicable percentage of the average monthly wage in the state as  
15 computed under the provisions of RCW 51.08.018 as follows:

AFTER	PERCENTAGE
June 30, 1993	105%
June 30, 1994	110%
June 30, 1995	115%
June 30, 1996	120%

21        (ii) For claims with date of injury or manifestation of  
22 occupational disease on or after July 1, 2003, but before June 30,  
23 2004, the monthly payments provided in this subsection may not exceed  
24 one hundred twenty percent of the average monthly wage in the state on  
25 June 30, 2003. For all claims with date of injury or manifestation of  
26 occupational disease on or after July 1, 2004, the monthly payments  
27 provided in this subsection may not exceed an amount determined by the  
28 department on June 30, 2003, and each June 30th thereafter, and  
29 applicable to claims with date of injury or manifestation of  
30 occupational disease occurring in the twelve-month period following the  
31 June 30th determination. The amount is determined by adjusting the  
32 June 30, 2003, amount for inflation on June 30, 2004. In subsequent  
33 years, the department shall adjust the amount applicable during the  
34 previous twelve-month period to account for inflation.

35        (b) The limitations under this subsection shall not apply to the  
36 payments provided for in subsection ~~((3))~~ (4) of this section.

1       (~~(6)~~) (7) In the case of new or reopened claims, if the  
2 supervisor of industrial insurance determines that, at the time of  
3 filing or reopening, the worker is voluntarily retired and is no longer  
4 attached to the work force, benefits shall not be paid under this  
5 section.

6       (~~(7)~~) (8) The benefits provided by this section are subject to  
7 modification under RCW 51.32.067.

8       **Sec. 6.** RCW 51.32.072 and 1987 c 185 s 34 are each amended to read  
9 as follows:

10       (1)(a) Notwithstanding any other provision of law, every surviving  
11 spouse and every permanently totally disabled worker or temporarily  
12 totally disabled worker, if such worker was unmarried at the time of  
13 the worker's injury or was then married but the marriage was later  
14 terminated by judicial action, receiving a pension or compensation for  
15 temporary total disability under this title pursuant to compensation  
16 schedules in effect prior to July 1, 1971, shall after July 1, 1975,  
17 and until July 1, 2003, be paid fifty percent of the average monthly  
18 wage in the state as computed under RCW 51.08.018 per month and an  
19 amount equal to five percent of such average monthly wage per month to  
20 such totally disabled worker if married at the time of the worker's  
21 injury and the marriage was not later terminated by judicial action,  
22 and an additional two percent of such average monthly wage for each  
23 child of such totally disabled worker at the time of injury in the  
24 legal custody of such totally disabled worker or such surviving spouse  
25 up to a maximum of five such children. The monthly payments such  
26 surviving spouse or totally disabled worker are receiving pursuant to  
27 compensation schedules in effect prior to July 1, 1971 shall be  
28 deducted from the monthly payments above specified.

29       (b) Subject to subsection (2) of this section, where such a  
30 surviving spouse has remarried, or where any such child of such worker,  
31 whether living or deceased, is not in the legal custody of such worker  
32 or such surviving spouse there shall be paid for the benefit of and on  
33 account of each such child a sum equal to two percent of such average  
34 monthly wage up to a maximum of five such children in addition to any  
35 payments theretofore paid under compensation schedules in effect prior  
36 to July 1, 1971 for the benefit of and on account of each such child.  
37 In the case of any child or children of a deceased worker not leaving

1 a surviving spouse or where the surviving spouse has later died, there  
2 shall be paid for the benefit of and on account of each such child a  
3 sum equal to two percent of such average monthly wage up to a maximum  
4 of five such children in addition to any payments theretofore paid  
5 under such schedules for the benefit of and on account of each such  
6 child.

7 (2) Beginning July 1, 2003, the monthly payments and the additional  
8 payments for the injured worker's spouse or children provided in this  
9 section may not exceed an amount determined by the department on June  
10 30, 2002, adjusted for inflation on June 30, 2003, and each June 30th  
11 thereafter, and applicable to payments made during the twelve-month  
12 period following the June 30th determination. The amount is determined  
13 by adjusting the amount applicable during the previous twelve-month  
14 period to account for inflation.

15 (3)(a) If the character of the injury or occupational disease is  
16 such as to render the worker so physically helpless as to require the  
17 hiring of the services of an attendant, the department shall make  
18 monthly payments to such attendant for such services as long as such  
19 requirement continues but such payments shall not obtain or be  
20 operative while the worker is receiving care under or pursuant to the  
21 provisions of this title except for care granted at the discretion of  
22 the supervisor pursuant to RCW 51.36.010: PROVIDED, That such payments  
23 shall not be considered compensation nor shall they be subject to any  
24 limitation upon total compensation payments.

25 (b) No part of such additional payments shall be payable from the  
26 accident fund.

27 (4) The director shall pay monthly from the supplemental pension  
28 fund such an amount as will, when added to the compensation theretofore  
29 paid under compensation schedules in effect prior to July 1, 1971,  
30 equal the amounts hereinabove specified.

31 (5) In cases where money has been or shall be advanced to any such  
32 person from the pension reserve, the additional amount to be paid under  
33 this section shall be reduced by the amount of monthly pension which  
34 was or is predicated upon such advanced portion of the pension reserve.

35 **Sec. 7.** RCW 51.32.075 and 1988 c 161 s 7 are each amended to read  
36 as follows:

37 (1) Subject to subsection (2) of this section, the compensation or

1 death benefits payable pursuant to the provisions of this chapter for  
2 temporary total disability, permanent total disability, or death  
3 arising out of injuries or occupational diseases shall be adjusted as  
4 follows:

5 ~~((1))~~ (a) On July 1, 1982, there shall be an adjustment for those  
6 whose right to compensation was established on or after July 1, 1971,  
7 and before July 1, 1982. The adjustment shall be determined by  
8 multiplying the amount of compensation to which they are entitled by a  
9 fraction, the denominator of which shall be the average monthly wage in  
10 the state under RCW 51.08.018 for the fiscal year in which such  
11 person's right to compensation was established, and the numerator of  
12 which shall be the average monthly wage in the state under RCW  
13 51.08.018 on July 1, 1982.

14 ~~((2))~~ (b) In addition to the adjustment established by  
15 ~~((subsection 1))~~ (a) of this ~~((section))~~ subsection, there shall be  
16 another adjustment on July 1, 1983, for those whose right to  
17 compensation was established on or after July 1, 1971, and before July  
18 1983, which shall be determined by multiplying the amount of  
19 compensation to which they are entitled by a fraction, the denominator  
20 of which shall be the average monthly wage in the state under RCW  
21 51.08.018 for the fiscal year in which such person's right to  
22 compensation was established, and the numerator of which shall be the  
23 average monthly wage in the state under RCW 51.08.018 on July 1, 1983.

24 ~~((3))~~ (c) In addition to the adjustments under ~~((subsections 1)~~  
25 ~~and 2))~~ (a) and (b) of this ~~((section))~~ subsection, further  
26 adjustments shall be made beginning on July 1, 1984, and on each July  
27 1st thereafter for those whose right to compensation was established on  
28 or after July 1, 1971. The adjustment shall be determined by  
29 multiplying the amount of compensation to which they are entitled by a  
30 fraction, the denominator of which shall be the average monthly wage in  
31 the state under RCW 51.08.018 for the fiscal year in which such  
32 person's right to compensation was established, and the numerator of  
33 which shall be the average monthly wage in the state under RCW  
34 51.08.018 on July 1st of the year in which the adjustment is being  
35 made. The department or self-insurer shall adjust the resulting  
36 compensation rate to the nearest whole cent, not to exceed the average  
37 monthly wage in the state as computed under RCW 51.08.018.



1	Of arm at or above the deltoid insertion or	
2	by disarticulation at the shoulder . . . . .	54,000.00
3	Of arm at any point from below the deltoid	
4	insertion to below the elbow joint at	
5	the insertion of the biceps tendon . . . . .	51,300.00
6	Of arm at any point from below the elbow	
7	joint distal to the insertion of the	
8	biceps tendon to and including	
9	mid-metacarpal amputation of the	
10	hand . . . . .	48,600.00
11	Of all fingers except the thumb at	
12	metacarpophalangeal joints . . . . .	29,160.00
13	Of thumb at metacarpophalangeal joint or	
14	with resection of carpometacarpal	
15	bone . . . . .	19,440.00
16	Of thumb at interphalangeal joint . . . . .	9,720.00
17	Of index finger at metacarpophalangeal	
18	joint or with resection of metacarpal	
19	bone . . . . .	12,150.00
20	Of index finger at proximal	
21	interphalangeal joint . . . . .	9,720.00
22	Of index finger at distal interphalangeal	
23	joint . . . . .	5,346.00
24	Of middle finger at metacarpophalangeal	
25	joint or with resection of metacarpal	
26	bone . . . . .	9,720.00
27	Of middle finger at proximal	
28	interphalangeal joint . . . . .	7,776.00
29	Of middle finger at distal interphalangeal	
30	joint . . . . .	4,374.00
31	Of ring finger at metacarpophalangeal	
32	joint or with resection of metacarpal	
33	bone . . . . .	4,860.00
34	Of ring finger at proximal interphalangeal	
35	joint . . . . .	3,888.00
36	Of ring finger at distal interphalangeal	
37	joint . . . . .	2,430.00

1	Of little finger at metacarpophalangeal	
2	joint or with resection of metacarpal	
3	bone .....	2,430.00
4	Of little finger at proximal interphalangeal	
5	joint .....	1,944.00
6	Of little finger at distal interphalangeal	
7	joint .....	972.00

8 MISCELLANEOUS

9	Loss of one eye by enucleation .....	21,600.00
10	Loss of central visual acuity in one eye ...	18,000.00
11	Complete loss of hearing in both ears ....	43,200.00
12	Complete loss of hearing in one ear .....	7,200.00

13 (b) Beginning on July 1, 1993, compensation under this subsection  
 14 shall be computed as follows:

15 (i) Beginning on July 1, 1993, the compensation amounts for the  
 16 specified disabilities listed in (a) of this subsection shall be  
 17 increased by thirty-two percent; (~~and~~)

18 (ii) Beginning on July 1, 1994, and (~~each July 1 thereafter~~)  
 19 ending on June 30, 2003, the compensation amounts for the specified  
 20 disabilities listed in (a) of this subsection, as adjusted under (b)(i)  
 21 of this subsection, shall be readjusted to reflect the percentage  
 22 change in the consumer price index, calculated as follows: The index  
 23 for the calendar year preceding the year in which the July calculation  
 24 is made, to be known as "calendar year A," is divided by the index for  
 25 the calendar year preceding calendar year A, and the resulting ratio is  
 26 multiplied by the compensation amount in effect on June 30 immediately  
 27 preceding the July 1st on which the respective calculation is made.  
 28 For the purposes of this subsection, "index" means the same as the  
 29 definition in RCW 2.12.037(1); and

30 (iii) Beginning on July 1, 2003, and each July 1st thereafter, the  
 31 compensation amounts of the specified disabilities listed in (a) of  
 32 this subsection, as adjusted under (b)(ii) of this subsection, shall be  
 33 adjusted to account for inflation.

34 (2) Compensation for amputation of a member or part thereof at a  
 35 site other than those specified in subsection (1) of this section, and  
 36 for loss of central visual acuity and loss of hearing other than  
 37 complete, shall be in proportion to that which such other amputation or

1 partial loss of visual acuity or hearing most closely resembles and  
2 approximates. Compensation shall be calculated based on the adjusted  
3 schedule of compensation in effect for the respective time period as  
4 prescribed in subsection (1) of this section.

5 (3)(a) Compensation for any other permanent partial disability not  
6 involving amputation shall be in the proportion which the extent of  
7 such other disability, called unspecified disability, shall bear to the  
8 disabilities specified in subsection (1) of this section, which most  
9 closely resembles and approximates in degree of disability such other  
10 disability, and compensation for any other unspecified permanent  
11 partial disability shall be in an amount as measured and compared to  
12 total bodily impairment. To reduce litigation and establish more  
13 certainty and uniformity in the rating of unspecified permanent partial  
14 disabilities, the department shall enact rules having the force of law  
15 classifying such disabilities in the proportion which the department  
16 shall determine such disabilities reasonably bear to total bodily  
17 impairment. In enacting such rules, the department shall give  
18 consideration to, but need not necessarily adopt, any nationally  
19 recognized medical standards or guides for determining various bodily  
20 impairments.

21 (b) Until July 1, 1993, for purposes of calculating monetary  
22 benefits under (a) of this subsection, the amount payable for total  
23 bodily impairment shall be deemed to be ninety thousand dollars.  
24 Beginning on July 1, 1993, for purposes of calculating monetary  
25 benefits under (a) of this subsection, the amount payable for total  
26 bodily impairment shall be adjusted as follows:

27 (i) Beginning on July 1, 1993, the amount payable for total bodily  
28 impairment under this section shall be increased to one hundred  
29 eighteen thousand eight hundred dollars; ~~((and))~~

30 (ii) Beginning on July 1, 1994, and ~~((each July 1 thereafter))~~  
31 ending on June 30, 2003, the amount payable for total bodily impairment  
32 prescribed in (b)(i) of this subsection shall be adjusted as provided  
33 in subsection (1)(b)(ii) of this section; and

34 (iii) Beginning on July 1, 2003, and each July 1st thereafter, the  
35 amount payable for total bodily impairment prescribed in (b)(i) of this  
36 subsection shall be adjusted as provided in subsection (1)(b)(iii) of  
37 this section.

1 (c) Until July 1, 1993, the total compensation for all unspecified  
2 permanent partial disabilities resulting from the same injury shall not  
3 exceed the sum of ninety thousand dollars. Beginning on July 1, 1993,  
4 total compensation for all unspecified permanent partial disabilities  
5 resulting from the same injury shall not exceed a sum calculated as  
6 follows:

7 (i) Beginning on July 1, 1993, the sum shall be increased to one  
8 hundred eighteen thousand eight hundred dollars; ~~((and))~~

9 (ii) Beginning on July 1, 1994, and ~~((each July 1 thereafter))~~  
10 ending on June 30, 2003, the sum prescribed in (b)(i) of this  
11 subsection shall be adjusted as provided in subsection (1)(b)(ii) of  
12 this section; and

13 (iii) Beginning on July 1, 2003, and each July 1st thereafter, the  
14 sum prescribed in (b)(i) of this subsection shall be adjusted as  
15 provided in subsection (1)(b)(iii) of this section.

16 (4) If permanent partial disability compensation is followed by  
17 permanent total disability compensation, any portion of the permanent  
18 partial disability compensation which exceeds the amount that would  
19 have been paid the injured worker if permanent total disability  
20 compensation had been paid in the first instance, shall be deducted  
21 from the pension reserve of such injured worker and his or her monthly  
22 compensation payments shall be reduced accordingly.

23 (5) Should a worker receive an injury to a member or part of his or  
24 her body already, from whatever cause, permanently partially disabled,  
25 resulting in the amputation thereof or in an aggravation or increase in  
26 such permanent partial disability but not resulting in the permanent  
27 total disability of such worker, his or her compensation for such  
28 partial disability shall be adjudged with regard to the previous  
29 disability of the injured member or part and the degree or extent of  
30 the aggravation or increase of disability thereof.

31 (6) When the compensation provided for in subsections (1) through  
32 (3) of this section exceeds three times the average monthly wage in the  
33 state as computed under the provisions of RCW 51.08.018, payment shall  
34 be made in monthly payments in accordance with the schedule of  
35 temporary total disability payments set forth in RCW 51.32.090 until  
36 such compensation is paid to the injured worker in full, except that  
37 the first monthly payment shall be in an amount equal to three times  
38 the average monthly wage in the state as computed under the provisions

1 of RCW 51.08.018, and interest shall be paid at the rate of eight  
2 percent on the unpaid balance of such compensation commencing with the  
3 second monthly payment. However, upon application of the injured  
4 worker or survivor the monthly payment may be converted, in whole or in  
5 part, into a lump sum payment, in which event the monthly payment shall  
6 cease in whole or in part. Such conversion may be made only upon  
7 written application of the injured worker or survivor to the department  
8 and shall rest in the discretion of the department depending upon the  
9 merits of each individual application. Upon the death of a worker all  
10 unpaid installments accrued shall be paid according to the payment  
11 schedule established prior to the death of the worker to the widow or  
12 widower, or if there is no widow or widower surviving, to the dependent  
13 children of such claimant, and if there are no such dependent children,  
14 then to such other dependents as defined by this title.

15 (7) Awards payable under this section are governed by the schedule  
16 in effect on the date of injury.

17 **Sec. 9.** RCW 51.32.090 and 1993 c 521 s 3, 1993 c 299 s 1, and 1993  
18 c 271 s 1 are each reenacted and amended to read as follows:

19 (1) When the total disability is only temporary, the schedule of  
20 payments contained in RCW 51.32.060 (1) (~~and~~) or (2) and (3) shall  
21 apply, so long as the total disability continues.

22 (2) Any compensation payable under this section for children not in  
23 the custody of the injured worker as of the date of injury shall be  
24 payable only to such person as actually is providing the support for  
25 such child or children pursuant to the order of a court of record  
26 providing for support of such child or children. This subsection does  
27 not apply to claims filed on or after July 1, 2003.

28 (3)(a) As soon as recovery is so complete that the worker is  
29 capable of gainful employment on a reasonably continuous basis and the  
30 present earning power of the worker, at any kind of work, is restored  
31 to that existing at the time of the occurrence of the injury, the  
32 payments shall cease. If and so long as the present earning power is  
33 only partially restored and the worker is working, the payments shall:

34 (i) For claims for injuries that occurred before May 7, 1993,  
35 continue in the proportion which the new earning power shall bear to  
36 the old; or

1 (ii) For claims for injuries occurring on or after May 7, 1993,  
2 equal eighty percent of the actual difference between the worker's  
3 present wages and earning power at the time of injury, but: (A) The  
4 total of these payments and the worker's present wages may not exceed  
5 one hundred fifty percent of the average monthly wage in the state as  
6 computed under RCW 51.08.018; (B) the payments may not exceed one  
7 hundred percent of the entitlement as computed under subsection (1) of  
8 this section; and (C) the payments may not be less than the worker  
9 would have received if (a)(i) of this subsection had been applicable to  
10 the worker's claim.

11 (b) No compensation shall be payable under this subsection (3)  
12 unless the loss of earning power shall exceed five percent.

13 (c) The injured worker remains eligible for the benefits provided  
14 in this subsection only until the injured worker's condition is  
15 medically fixed and stable.

16 (4)(a) Whenever the employer of injury requests that a worker who  
17 is entitled to temporary total disability under this chapter be  
18 certified by a physician as able to perform available work other than  
19 his or her usual work, the employer shall furnish to the physician,  
20 with a copy to the worker, a statement describing the work available  
21 with the employer of injury in terms that will enable the physician to  
22 relate the physical activities of the job to the worker's disability.  
23 The physician shall then determine whether the worker is physically  
24 able to perform the work described. The worker's temporary total  
25 disability payments shall continue until the worker is released by his  
26 or her physician for the work, and begins the work with the employer of  
27 injury. If the work thereafter comes to an end before the worker's  
28 recovery is sufficient in the judgment of his or her physician to  
29 permit him or her to return to his or her usual job, or to perform  
30 other available work offered by the employer of injury, the worker's  
31 temporary total disability payments shall be resumed. Should the  
32 available work described, once undertaken by the worker, impede his or  
33 her recovery to the extent that in the judgment of his or her physician  
34 he or she should not continue to work, the worker's temporary total  
35 disability payments shall be resumed when the worker ceases such work.

36 (b) Once the worker returns to work under the terms of this  
37 subsection (4), he or she shall not be assigned by the employer to work

1 other than the available work described without the worker's written  
2 consent, or without prior review and approval by the worker's  
3 physician.

4 (c) If the worker returns to work under this subsection (4), any  
5 employee health and welfare benefits that the worker was receiving at  
6 the time of injury shall continue or be resumed at the level provided  
7 at the time of injury. Such benefits shall not be continued or resumed  
8 if to do so is inconsistent with the terms of the benefit program, or  
9 with the terms of the collective bargaining agreement currently in  
10 force.

11 (d) In the event of any dispute as to the worker's ability to  
12 perform the available work offered by the employer, the department  
13 shall make the final determination.

14 (5) No worker shall receive compensation for or during the day on  
15 which injury was received or the three days following the same, unless  
16 his or her disability shall continue for a period of fourteen  
17 consecutive calendar days from date of injury: PROVIDED, That attempts  
18 to return to work in the first fourteen days following the injury shall  
19 not serve to break the continuity of the period of disability if the  
20 disability continues fourteen days after the injury occurs.

21 (6) Should a worker suffer a temporary total disability and should  
22 his or her employer at the time of the injury continue to pay him or  
23 her the wages which he or she was earning at the time of such injury,  
24 such injured worker shall not receive any payment provided in  
25 subsection (1) or (2) of this section during the period his or her  
26 employer shall so pay such wages.

27 (7) (~~In no event shall~~) (a) For claims with date of injury or  
28 manifestation of occupational disease before July 1, 2003, the monthly  
29 payments provided in this section may not exceed the applicable  
30 percentage of the average monthly wage in the state as computed under  
31 the provisions of RCW 51.08.018 as follows:

	AFTER	PERCENTAGE
32		
33	June 30, 1993	105%
34	June 30, 1994	110%
35	June 30, 1995	115%
36	June 30, 1996	120%

1       (b) For claims with date of injury or manifestation of occupational  
2 disease on or after July 1, 2003, but before June 30, 2004, the monthly  
3 payments provided in this subsection may not exceed one hundred twenty  
4 percent of the average monthly wage in the state on June 30, 2003. For  
5 all claims with date of injury or manifestation of occupational disease  
6 on or after July 1, 2004, the monthly payments provided in this  
7 subsection may not exceed an amount determined by the department on  
8 June 30, 2003, and each June 30th thereafter, and applicable to claims  
9 with date of injury or manifestation of occupational disease occurring  
10 in the twelve-month period following the June 30th determination. The  
11 amount is determined by adjusting the June 30, 2003, amount for  
12 inflation on June 30, 2004. In subsequent years, the department shall  
13 adjust the amount applicable during the previous twelve-month period to  
14 account for inflation.

15       (8) If the supervisor of industrial insurance determines that the  
16 worker is voluntarily retired and is no longer attached to the work  
17 force, benefits shall not be paid under this section.

18       **Sec. 10.** RCW 51.32.095 and 1999 c 110 s 1 are each amended to read  
19 as follows:

20       (1) One of the primary purposes of this title is to enable the  
21 injured worker to become employable at gainful employment. To this  
22 end, the department or self-insurers shall utilize the services of  
23 individuals and organizations, public or private, whose experience,  
24 training, and interests in vocational rehabilitation and retraining  
25 qualify them to lend expert assistance to the supervisor of industrial  
26 insurance in such programs of vocational rehabilitation as may be  
27 reasonable to make the worker employable consistent with his or her  
28 physical and mental status. Where, after evaluation and recommendation  
29 by such individuals or organizations and prior to final evaluation of  
30 the worker's permanent disability and in the sole opinion of the  
31 supervisor or supervisor's designee, whether or not medical treatment  
32 has been concluded, vocational rehabilitation is both necessary and  
33 likely to enable the injured worker to become employable at gainful  
34 employment, the supervisor or supervisor's designee may, in his or her  
35 sole discretion, pay or, if the employer is a self-insurer, direct the  
36 self-insurer to pay the cost as provided in subsection (3) of this  
37 section.

1 (2) When in the sole discretion of the supervisor or the  
2 supervisor's designee vocational rehabilitation is both necessary and  
3 likely to make the worker employable at gainful employment, then the  
4 following order of priorities shall be used:

5 (a) Return to the previous job with the same employer;

6 (b) Modification of the previous job with the same employer  
7 including transitional return to work;

8 (c) A new job with the same employer in keeping with any  
9 limitations or restrictions;

10 (d) Modification of a new job with the same employer including  
11 transitional return to work;

12 (e) Modification of the previous job with a new employer;

13 (f) A new job with a new employer or self-employment based upon  
14 transferable skills;

15 (g) Modification of a new job with a new employer;

16 (h) A new job with a new employer or self-employment involving on-  
17 the-job training;

18 (i) Short-term retraining and job placement.

19 (3)(a) Except as provided in (b) of this subsection, costs for  
20 vocational rehabilitation benefits allowed by the supervisor or  
21 supervisor's designee under subsection (1) of this section may include  
22 the cost of books, tuition, fees, supplies, equipment, transportation,  
23 child or dependent care, and other necessary expenses for any such  
24 worker in an amount not to exceed three thousand dollars in any fifty-  
25 two week period (~~((except as authorized by RCW 51.60.060))~~), and the cost  
26 of continuing the temporary total disability compensation under RCW  
27 51.32.090 while the worker is actively and successfully undergoing a  
28 formal program of vocational rehabilitation.

29 (b) Beginning with vocational rehabilitation plans approved on or  
30 after July 1, 1999, costs for vocational rehabilitation benefits  
31 allowed by the supervisor or supervisor's designee under subsection (1)  
32 of this section may include the cost of books, tuition, fees, supplies,  
33 equipment, child or dependent care, and other necessary expenses for  
34 any such worker in an amount not to exceed (~~((four))~~) five thousand  
35 dollars in any fifty-two week period (~~((except as authorized by RCW  
36 51.60.060))~~), and the cost of transportation and continuing the  
37 temporary total disability compensation under RCW 51.32.090 while the

1 worker is actively and successfully undergoing a formal program of  
2 vocational rehabilitation.

3 (c) The expenses allowed under (a) or (b) of this subsection may  
4 include training fees for on-the-job training and the cost of  
5 furnishing tools and other equipment necessary for self-employment or  
6 reemployment. However, compensation or payment of retraining with job  
7 placement expenses under (a) or (b) of this subsection may not be  
8 authorized for a period of more than fifty-two weeks, except that such  
9 period may, in the sole discretion of the supervisor after his or her  
10 review, be extended for an additional fifty-two weeks or portion  
11 thereof by written order of the supervisor.

12 (d) In cases where the worker is required to reside away from his  
13 or her customary residence, the reasonable cost of board and lodging  
14 shall also be paid.

15 (e) Costs paid under this subsection shall be chargeable to the  
16 employer's cost experience or shall be paid by the self-insurer as the  
17 case may be.

18 (4) In addition to the vocational rehabilitation expenditures  
19 provided for under subsection (3) of this section, an additional five  
20 thousand dollars may, upon authorization of the supervisor or the  
21 supervisor's designee, be expended for: (a) Accommodations for an  
22 injured worker that are medically necessary for the worker to  
23 participate in an approved retraining plan; and (b) accommodations  
24 necessary to perform the essential functions of an occupation in which  
25 an injured worker is seeking employment, consistent with the retraining  
26 plan or the recommendations of a vocational evaluation. The injured  
27 worker's attending physician must verify the necessity of the  
28 modifications or accommodations. The total expenditures authorized in  
29 this subsection and the expenditures authorized under RCW 51.32.250  
30 shall not exceed five thousand dollars.

31 (5) The department shall establish criteria to monitor the quality  
32 and effectiveness of rehabilitation services provided by the  
33 individuals and organizations used under subsection (1) of this  
34 section. The state fund shall make referrals for vocational  
35 rehabilitation services based on these performance criteria.

36 (6) The department shall engage in, where feasible and cost-  
37 effective, a cooperative program with the state employment security  
38 department to provide job placement services under this section.

1 (7) The benefits in this section shall be provided for the injured  
2 workers of self-insured employers. Self-insurers shall report both  
3 benefits provided and benefits denied under this section in the manner  
4 prescribed by the department by rule adopted under chapter 34.05 RCW.  
5 The director may, in his or her sole discretion and upon his or her own  
6 initiative or at any time that a dispute arises under this section,  
7 promptly make such inquiries as circumstances require and take such  
8 other action as he or she considers will properly determine the matter  
9 and protect the rights of the parties.

10 (8) Except as otherwise provided in this section, the benefits  
11 provided for in this section are available to any otherwise eligible  
12 worker regardless of the date of industrial injury. However, claims  
13 shall not be reopened solely for vocational rehabilitation purposes.

14 **Sec. 11.** RCW 51.36.020 and 1999 c 395 s 1 are each amended to read  
15 as follows:

16 (1) When the injury to any worker is so serious as to require his  
17 or her being taken from the place of injury to a place of treatment,  
18 his or her employer shall, at the expense of the medical aid fund, or  
19 self-insurer, as the case may be, furnish transportation to the nearest  
20 place of proper treatment.

21 (2) Every worker whose injury results in the loss of one or more  
22 limbs or eyes shall be provided with proper artificial substitutes and  
23 every worker, who suffers an injury to an eye producing an error of  
24 refraction, shall be once provided proper and properly equipped lenses  
25 to correct such error of refraction and his or her disability rating  
26 shall be based upon the loss of sight before correction.

27 (3) Every worker whose accident results in damage to or destruction  
28 of an artificial limb, eye, or tooth, shall have same repaired or  
29 replaced.

30 (4) Every worker whose hearing aid or eyeglasses or lenses are  
31 damaged, destroyed, or lost as a result of an industrial accident shall  
32 have the same restored or replaced. The department or self-insurer  
33 shall be liable only for the cost of restoring damaged hearing aids or  
34 eyeglasses to their condition at the time of the accident.

35 (5) All mechanical appliances necessary in the treatment of an  
36 injured worker, such as braces, belts, casts, and crutches, shall be  
37 provided and all mechanical appliances required as permanent equipment

1 after treatment has been completed shall continue to be provided or  
2 replaced without regard to the date of injury or date treatment was  
3 completed, notwithstanding any other provision of law.

4 (6) A worker, whose injury is of such short duration as to bring  
5 him or her within the time limit provisions of RCW 51.32.090, shall  
6 nevertheless receive during the omitted period medical, surgical, and  
7 hospital care and service and transportation under the provisions of  
8 this chapter.

9 (7) Whenever in the sole discretion of the supervisor it is  
10 reasonable and necessary to provide residence modifications necessary  
11 to meet the needs and requirements of the worker who has sustained  
12 catastrophic injury, the department or self-insurer may be ordered to  
13 pay an amount determined as follows:

14 (a) For claims with date of injury or manifestation of occupational  
15 disease before July 1, 2003, the amount may not ((to)) exceed the  
16 state's average annual wage for one year as determined under RCW  
17 50.04.355(~~, as now existing or hereafter amended,~~) toward the cost of  
18 such modifications or construction. ((Such))

19 (b) For claims with date of injury or manifestation of occupational  
20 disease on or after July 1, 2003, but before June 30, 2004, the amount  
21 provided for in this subsection may not exceed one hundred twenty  
22 percent of the average annual wage in the state on June 30, 2003. For  
23 all claims with date of injury or manifestation of occupational disease  
24 on or after July 1, 2004, the amount provided in this subsection may  
25 not exceed an amount determined by the department on June 30, 2003, and  
26 each June 30th thereafter, and applicable to claims with date of injury  
27 or manifestation of occupational disease occurring in the twelve-month  
28 period following the June 30th determination. The amount is determined  
29 by adjusting the June 30, 2003, amount for inflation on June 30, 2004.  
30 In subsequent years, the department shall adjust the amount applicable  
31 during the previous twelve-month period to account for inflation.  
32 Payment shall ((only)) be made under this subsection only for the  
33 construction or modification of a residence in which the injured worker  
34 resides. Only one residence of any worker may be modified or  
35 constructed under this subsection, although the supervisor may order  
36 more than one payment for any one home, up to the maximum amount  
37 permitted by this section.

1 (8)(a) Whenever in the sole discretion of the supervisor it is  
2 reasonable and necessary to modify a motor vehicle owned by a worker  
3 who has become an amputee or becomes paralyzed because of an industrial  
4 injury, the supervisor may pay or order a self-insurer to pay as  
5 follows:

6 (i) For claims with date of injury or manifestation of occupational  
7 disease before July 1, 2003, up to fifty percent of the state's average  
8 annual wage for one year, as determined under RCW 50.04.355(~~, to be~~  
9 paid by the department or self-insurer)) toward the costs thereof.

10 (ii) For claims with date of injury or manifestation of  
11 occupational disease on or after July 1, 2003, but before June 30,  
12 2004, the amount will be up to fifty percent of the state's average  
13 annual wage as of June 30, 2003, adjusted for inflation. For all  
14 claims with date of injury or manifestation of occupational disease on  
15 or after July 1, 2004, the amount provided in this subsection may not  
16 exceed an amount determined by the department on June 30, 2003, and  
17 each June 30th thereafter, and applicable to claims with date of injury  
18 or manifestation of occupational disease occurring in the twelve-month  
19 period following the June 30th determination. The amount is determined  
20 by adjusting the June 30, 2003, amount for inflation on June 30, 2004.  
21 In subsequent years, the department shall adjust the amount applicable  
22 during the previous twelve-month period to account for inflation.

23 (b) In the sole discretion of the supervisor after his or her  
24 review, the amount paid under this subsection may be increased by no  
25 more than four thousand dollars by written order of the supervisor.

26 (9) The benefits provided by subsections (7) and (8) of this  
27 section are available to any otherwise eligible worker regardless of  
28 the date of industrial injury.

29 NEW SECTION. Sec. 12. A new section is added to chapter 51.08 RCW  
30 to read as follows:

31 The department may adopt rules necessary to implement section 2 of  
32 this act.

33 NEW SECTION. Sec. 13. A new section is added to chapter 51.32 RCW  
34 to read as follows:

35 The department may adopt rules necessary to implement section 9 of  
36 this act.

1        NEW SECTION.   **Sec. 14.**   This act is necessary for the immediate  
2   preservation of the public peace, health, or safety, or support of the  
3   state government and its existing public institutions, and takes effect  
4   July 1, 2003.

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